

# GENERAL TERMS AND CONDITIONS

Ernst & Young Law GmbH Rechtsanwalts-gesellschaft Steuerberatungsgesellschaft

as of July 2024

This is an English translation of the German text (please refer to [www.ey.com/aab](http://www.ey.com/aab)), the German text being the sole authoritative version.

## Definitions

- Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Agreement or applicable Statement of Work. The following terms are defined as specified below:

"Client Affiliate" means an enterprise which is affiliated to Client in the sense of Section 15 AktG [German Stock Corporation Act: *Aktiengesetz*].

"Client Information" means information obtained by EY from Client or from a third party on Client's behalf.

"EY Firm" means a member of the EY network and any entity operating under a common branding arrangement with a member of the EY network.

"EY Persons" means EY's or any other EY Firm's subcontractors, members, shareholders, directors, officers, partners, principals or employees.

"Internal Support Services" means internal support services utilized by EY, including but not limited to: (a) administrative support, (b) accounting and finance support, (c) network coordination, (d) IT functions including business applications, system management, and data security, storage and recovery, and (e) conflict checking, risk management and quality reviews.

"Personal Data" means Client Information relating to identified or identifiable natural persons.

"Support Providers" means external service providers of EY and other EY Firms and their respective subcontractors.

„*Textform*“ refers to Section 126 b BGB [German Civil Code: *Bürgerliches Gesetzbuch*] and means a readable declaration on a durable medium (e.g. via email).

## Provision of the Services

- EY will provide the Services in accordance with applicable professional standards.
- EY may subcontract a portion of the Services to one or more EY Firms, as well as to other third parties, who may deal with Client directly. EY will remain solely responsible to Client for the performance of the Services.
- EY will act as an independent contractor and not as Client's employee, agent or partner. Client shall assign qualified personnel to oversee the Services as well as the use and implementation of the Services.
- Client agrees to promptly provide to EY (or cause others to so provide) Client Information, resources and assistance (including access to records, systems, premises and people) that EY reasonably requires to perform the Services. The provision of Client Information (including Personal Data), resources and assistance to EY will be in accordance with applicable law and will not infringe any copyright or other third-party rights.
- Client Information will be accurate and complete. EY will rely on Client Information, and, unless EY agrees otherwise, EY will have no responsibility to verify it.

## Limitation of Liability

- Client's right to compensation for damage caused by simple negligence (*einfache Fahrlässigkeit*) deriving from the contractual relationship between Client and EY is limited to a maximum amount of EUR 10 million (in words: ten million Euros) pursuant to Section 52 para. 1 No. 2 BRAO [Federal Lawyer's Act: *Bundesrechtsanwaltsordnung*]. This limitation of liability does not apply to damages resulting from injury to life, body or health, as well as for damages that constitute a duty of replacement by a producer pursuant to Section 1 ProdHaftG [German Product Liability Act: *Produkthaftungsgesetz*].

- If Client considers the liability limit stipulated in Section 7 and the amount EY's liability is limited to where Section 7 applies ("Maximum Liability Amount") as inappropriate, Client shall inform EY of the extension of EY's liability Client would like to be agreed on instead. In this case EY will endeavor to obtain additional insurance for such increased amount. Provided that Client is furthermore prepared to bear the additional costs arising from such additional insurance, EY is prepared to agree with Client on a corresponding extension of EY's liability.

- If legitimate claims falling within EY's limitation of liability are brought against EY by Client and/or one or more third parties who are entitled to invoke a Statement of Work, the Maximum Liability Amount will be – in accordance with Section 428 BGB – available only once to all – including all future – claimants collectively. Hence, any payment by EY to Client has discharging effect towards all claimants. In case the sum of all claims (including future claims) to which EY's limitation-of-liability-provisions apply exceed the Maximum Liability Amount, the allocation of this Maximum Liability Amount amongst all claimants (including Client) is entirely a matter for discussion amongst all claimants.

Section 334 BGB shall apply.

- Client (and any others for whom Services are provided under a Statement of Work) may not make a contractual claim or bring proceedings arising from the provision of the Services or otherwise under a Statement of Work against any other EY Firm or EY Person. Client shall make any contractual claim or bring such proceedings only against EY.

## No Responsibility to Third Parties

- Unless otherwise agreed with Client, EY's responsibility for performance of the Services is to Client and Client alone. Thus, the Services do not consider the interests of third parties (including any Client Affiliates), are therefore not designed or intended to serve third parties as a basis for their decisions and third parties can neither infer rights nor otherwise benefit from a Statement of Work. Should the Services be disclosed, or otherwise made available, by or through Client (or at Client's request) to a third party (including any Client Affiliates), Client agrees to indemnify EY, as well as the other EY Firms and the EY Persons, against all claims by third parties (including any Client Affiliates), and resulting liabilities, losses, damages, costs (including time spent by EY Persons) and expenses (including reasonable external and internal legal costs) arising out of such disclosure. Client shall have no obligation hereunder to the extent that EY has specifically authorized, in writing (*Textform*), the third party's reliance on the Services.

## Confidentiality, Data Protection & Security

- Except as otherwise permitted by the Agreement and/or the Statement of Work, neither party may disclose to third parties any information provided by or on behalf of the other that ought reasonably to be treated as confidential (including, in the case of EY, Client Information). Each party may, however, disclose such information to the extent that it must be disclosed under applicable law or professional regulations.
- The parties may also exchange information via e-mail communication. The transmission of an unencrypted e-mail carries the risk that this message is intercepted by an unauthorized third party and that its content is being disclosed. Each party is entitled to encrypt e-mail communication or to request an encryption or other solutions for secure data exchange. Being aware of the immanent risks associated with unencrypted e-mail communication Client declares to agree that EY may also communicate via unencrypted e-mails, including incorporated information and attached documents to Client or any third party being involved in the performance of the Services.

14. EY uses other EY Firms, EY Persons and Support Providers who may have access to Client Information in connection with delivery of Services as well as to provide Internal Support Services. EY shall be responsible for any use or disclosure of Client Information by other EY Firms, EY Persons or Support Providers to the same extent as if EY had engaged in the conduct itself.
15. EY, other EY Firms, EY Persons and their Support Providers may process Client Information, including Personal Data, in various jurisdictions in which they operate (EY office locations are listed at [www.ey.com](http://www.ey.com)). Client Information, including any Personal Data, will be processed in accordance with applicable law, and appropriate technical and organizational security measures will be implemented to protect it. Transfer of Personal Data among members of the EY network is subject to the EY Binding Corporate Rules Program, available at [ey-law.de/bcr](http://ey-law.de/bcr). Further information about EY's processing of Personal Data is available at [ey-law.de/privacy-statement](http://ey-law.de/privacy-statement).
16. If Client requires EY to access or use Client or third-party systems or devices, EY shall have no responsibility for the confidentiality, security or data protection controls of such systems or devices or for their performance or compliance with Client requirements or applicable law.
17. To facilitate the performance of the Services, EY may provide access to, or otherwise make available, technology-enabled collaboration tools and platforms to Client personnel or third parties acting on Client's behalf or at Client's request. Client shall be responsible for all such persons' compliance with the terms applicable to the use of such tools and platforms.

#### **Term and Termination**

18. Either party may terminate the Agreement, a Statement of Work or any particular Services, upon 90 days' prior written notice (*Textform*) to the other. In addition, EY may terminate the Agreement, a Statement of Work or any particular Services, immediately upon written notice (*Textform*) to Client if EY reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations. Sections 626 and 627 BGB shall remain unaffected.

#### **Governing Law and Jurisdiction**

19. The Agreement, a Statement of Work and any non-contractual matters or obligations arising out of the Agreement, a Statement of Work or the Services, shall be governed by, and construed in accordance with, the laws of Germany.

Any dispute relating to the Agreement, a Statement of Work or the Services shall be subject to the exclusive jurisdiction of the courts of Stuttgart, Germany, if the Client is a merchant (*Kaufmann*), a corporate body under public law (*juristische Person des öffentlichen Rechts*) or a public law special asset (*öffentlich-rechtliches Sondervermögen*).

EY is not prepared to participate in dispute settlement procedures before a consumer arbitration board (*Verbraucherschlichtungsstelle*) within the meaning of Section 2 VSBG [German Act on Consumer Dispute Settlements: *Verbraucherstreitbeilegungsgesetz*].

#### **Miscellaneous**

20. The Agreement and the applicable Statement of Work constitute the entire agreement between the parties as to the Services and the other matters they cover, and supersede all prior understandings and representations with respect thereto, including any previously agreed confidentiality agreements.
21. The Agreement and the Statement of Work (and any modifications to them) must be agreed in writing (*Textform*).
22. Neither party may assign or transfer any of its rights, obligations or claims under the Agreement and/or a Statement of Work.

Unless Client qualifies as a consumer in the meaning of Section 13 BGB, a set off against EY's claims for remuneration and reimbursement of expenses is admissible only for undisputed claims.

23. If any provision of the Agreement and/or a Statement of Work (in whole or part) is held to be illegal, invalid or otherwise unenforceable, the other provisions shall remain in full force and effect.
24. If there is any inconsistency between provisions in different parts, those parts shall have precedence as follows (unless agreed otherwise): (a) the Statement of Work and any annexes thereto, (b) the Agreement including the Fee Arrangement and additional annexes and (c) these General Terms and Conditions.
25. The limitations in Sections 7 through 10 and the provisions of Sections 11 and 15 are intended to benefit the other EY Firms and all EY Persons, who shall be entitled to enforce them.